UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EZRA RODRIGUEZ #979211,

      Plaintiff,

                            Case No. 1:23-cv-335

v.

                            HONORABLE PAUL L. MALONEY

JOHN DAVIDS, et al.,

      Defendants.

_____/

ORDER ADOPTING REPORT AND RECOMMENDATION

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendant Saad filed a motion to dismiss. The MDOC Defendants filed a motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on November 15, 2023, recommending that Defendant Saad's motion be granted in part and denied in part, that MDOC Defendants' motion be granted, and the matter terminated. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 31) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion to Dismiss (ECF No. 12) is GRANTED IN PART AND DENIED IN PART. Specifically, the motion to dismiss for failure to state a claim is denied but the motion to dismiss for failure to exhaust administrative remedies is granted.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 17) is GRANTED.

IT IS FURTHER ORDERED that all of Plaintiff's claims are dismissed without prejudice for failure to exhaust administrative remedies and this matter is terminated.

IT IS FURTHER ORDERED that for the same reasons the Court concludes that Plaintiff's claims are properly dismissed, the Court also concludes that any issue Plaintiff might raise on appeal would be frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Accordingly, the Court certifies that an appeal would not be taken in good faith.

A Judgment will be entered consistent with this Order.

Dated: December 19, 2023   /s/ Paul L. Maloney
                                                                                    Paul L. Maloney
                                                                                    United States District Judge

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